

ADAM F. ZBILSKI

IBLA 78-61 Decided February 8, 1978

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting first-drawn entry card NM 31370.

Reversed.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications:
Attorneys in Fact or Agents

Where an inquiry by BLM discloses that an oil and gas lease applicant personally signed his name on his drawing entry card, there can be no question of the application of 43 CFR 3102.6-1(a), since this regulation operates only where an agent or attorney in fact signs the card on his principal's behalf.

2. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases: Applications:
Drawings

An oil and gas drawing entry card may not be rejected merely because it is signed by the applicant before the parcel number is entered on it by another.

APPEARANCES: Warren G. Peterson, Esq., Chicago, Illinois, for appellant.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Adam F. Zbilski (appellant) has appealed from the September 30, 1977, decision of the New Mexico State Office, Bureau of Land Management (BLM), rejecting his oil and gas lease offer NM 31370. Appellant's drawing entry card was submitted for parcel number NM-819 and was drawn first in the drawing held by BLM on August 9, 1977. On

August 24, 1977, BLM issued a decision requiring that appellant submit additional evidence concerning the circumstances under which his offer was formulated, because the offer card included a common address used by other applicants. To this decision, BLM attached a "Statement" to be filled out by appellant, requiring answers to several questions.

On September 16, 1977, appellant filed a completed version of the statement sent to him by BLM. On September 30, 1977, BLM issued its decision rejecting his offer because the information included on the statement indicated that the offer was formulated by American Standard Oil & Gas Leasing Service, Inc. (American Standard), as appellant's agent, rather than by appellant himself. Since an agency relationship existed, BLM held, appellant was required by 43 CFR 3102.6-1 to submit an agency statement, and since he had not done so, BLM held that his offer must be rejected.

We conclude that BLM erred by rejecting appellant's lease offer.

[1] The critical fact in this matter is not in dispute: appellant himself signed the drawing entry card. Under 43 CFR 3102.6-1, 1/ no agency statement is required unless the offer is signed or a facsimile of the offeror's signature is affixed by an agent on the offeror's behalf. The requirements of this section are triggered

1/ § 3102.6 Attorney-in-fact.

§ 3102.6-1 Statements.

"(a) Evidence required. (1) Except in the case where a member or a partner signs an offer on behalf of an association * * * or where an officer of a corporation signs an offer on behalf of the corporation * * * evidence [must be submitted] of the authority of the attorney-in-fact or agent to sign the offer and lease, if the offer is signed by such attorney or agent on behalf of the offeror. Where such evidence has previously been filed in the same proper office where the offer is filed, a reference to be serial number of the record in which it has been filed, together with a statement by the attorney-in-fact or agent that such authority is still in effect will be accepted.

"(2) If the offer is signed by an attorney in fact or agent, it shall be accompanied by separate statements over the signatures of the attorney-in-fact or agent and the offeror stating whether or not there is any agreement or understanding between them or with any other person, either oral or written, by which the attorney in fact or agent or such other person has received or is to receive any interest in the lease when issued including royalty interest or interest in any operating agreement under the lease, giving full details of the agreement or understanding if it is a verbal one." [Emphasis supplied.]

only where an attorney in fact or agent imprints the offeror's signature. Virginia A. Rapozo, 33 IBLA 344 (1978); Evelyn Chambers, 31 IBLA 381, 384 (1977). Since the offeror personally signed the offer, the requirements of this section do not apply, and BLM erred by rejecting appellant's offer for failure to submit an agency statement with it.

[2] Appellant admitted in his statement that he signed the card before American Standard formulated the offer on his behalf. However, appellant's signing the card before the parcel number is inserted on the card does not require the submission of the separate statements referred to in 43 CFR 3102.6-1, Virginia A. Rapozo, *supra*; Evelyn Chambers, *supra*. Accordingly, appellant's offer may not be rejected for this reason.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed.

Edward W. Stuebing
Administrative Judge

We concur:

Martin Ritvo
Administrative Judge

Joan B. Thompson
Administrative Judge

